IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

WRIT PETITION No. 20582 of 1994

Between:

1. Smt. Zahoorunnisa, (Died per LRs)
2. Smt. Kameez Sugra,
   W/o Md. Ishaq,
   R/o 22-1-32/1, Kali Kabar,
   Darushifa, Hyderabad.
3 Mir Baquar Ali Khan,
   S/o Late Mir Ashif Ali Khan
   R/o 22-1-32/1. Kali Kabar,
   Darushifa, Hyderabad.
4 Mir Naqir Ali Khan,
   S/o Late Mir Ashif Ali Khan
   R/o 22-1-32/1. Kali Kabar,
   Darushifa, Hyderabad.

(Petitioner Nos.2 to 4 are brought on record as LRs of Petitioner No.1 as per court order dt. 10.7.02 in WPMP.No.15033/02)

..... PETITIONERS

AND

1 Government of A.P., Rep by Prl. Secretary
   Municipal Administration Department, Secretariat,
   Hyderabad.
2 Special Officer & Commissioner
   Municipal Corporation of Hyderabad, Tank Bund Road,
   Hyderabad.
3 The Estate Officer
   Municipal Corporation of Hyderabad, Tank Bund Road,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of WRIT OF MANDAMUS declaring the third Respondent's letter No.1206/EO/93/190 dt: 4.2.1994 as illegal, arbitrary, violative of Principles of Natural Justice and Articles 21 and 300-A of the Constitution of India, and consequently direct the Respondent to allot Shop No. 14 in the Ground Floor or Shop No. 58& 59 in the Cellar in Municipal Parking Cum Commercial Complex, situated at Abids Circle, Hyderabad, with all rights on ownership basis without cost in lieu of the mulgi of the Petitioner's husband bearing No.4-1-832/1, situated opposite to G.P.O. Buildings Abids, Hyderabad;

IN THE ALTERNATIVE, direct the respondents to acquire the land by issuing notification as on date under section 4(1) of the Land Acquisition Act and pay the compensation to the Petitioner herein as per the present market value; and to pay a sum of Rs.5,000/- per month from October, 1985 to the petitioner in lieu of loss of livelihood till the compensation is award is passed.

For the Petitioner :Mr. MIRZA SAIFIULLA BAIG, Advocate

For the Respondents: Govt. Pleader for Municipal Admn. For R-1

Mr. Ganta Rama Rao,

Standing counsel for R-2 and R-3

The Court Made the following :

ORDER:

The petitioner's husband was having a book stall in malgi bearing No.4-1-832/1, situate in front of G.P.O., Abids, Hyderabad, which was demolished by respondents on

27-10-1985 for widening of the road. After the petitioner's husband died, she made representations to the respondents for allotment of equivalent area/shop on ownership basis in lieu of the shop, which was demolished. The respondent – Corporation informed the petitioner that after completing the construction of new shopping complex, her request would be considered. Ultimately, she was asked to have a shop on lease for which purpose she was asked to apply. The petitioner replied that since she and her sons were without any avocation, she should be given two shops that too on ownership basis. This request was not acceded to by the respondents. As such, the petitioner approached this Court seeking direction to the respondents to allot Shop No.14 in the Ground Floor or Shop Nos.58 and 59 in the cellar of the parking-cum-commercial complex situated at Abids circle, Hyderabad, on ownership basis. The petitioner alleged that the Municipal Corporation, Hyderabad was providing alternative shop by giving concession in rent whereas

the Corporation was not prepared to allot two shops to the petitioner on ownership basis.

Respondents contested the petition stating that in order to mitigate the hardship of the petitioner, it was decided to provide alternative accommodation within the proposed parking-cum-commercial complex at Abids vide Letter No.143/TP/MCH/86/C6 dated 15-07-1986 subject to the conditions mentioned therein. Respondents have denied that they had promised to allot the shop in the municipal complex on ownership basis. The respondent asserted that the petitioner's husband had been allotted the said shop on lease basis only. Refuting the other allegations made in the petitioner's representation, the respondents asserted that the petitioner be asked to fill up proper form and accept the allotment of shop as offered to her in the respondents' letter dated 15-07-1986.

During pendency of the petition, the petitioner died. Her legal representatives are now on record on W.P.M.P.No.15033 of 2002 being ordered.

Having considered the submissions made by the learned counsel for petitioners and the counter-affidavit, I am of the view that the petitioners have not made out any case for allotment of shop on ownership basis. The petitioner's husband was carrying on business in an allotted shop, which was demolished. At the most, the

petitioner's husband was entitled to compensation for the loss, if any, suffered by him due to the alleged illegal demolition by the respondents. It was not claimed. The respondents, as a matter of policy, decided to provide alternative accommodation to those who had suffered because of road widening, and the petitioners have been treated equally when they similarly were asked to accept allotment of shop on rent and not on ownership basis. The respondents having treated the petitioner equally being the widow of the person who was displaced as a fact of widening of road, the directions prayed for cannot be granted.

Accordingly, the writ petition is disposed of with direction that in case the petitioners (the legal representatives of the deceased) would approach the respondents by submitting proper representation within six weeks from the date of receipt of writ order expressing willingness to accept the allotment as offered by respondents in the letter dated 15-07-1986, the respondents shall within a period of two months from the date of receipt of petitioners' representation make allotment of the said shop on the same terms and conditions on which the shops were allotted to the other similarly situated persons, who were displaced as a result of widening of the road.

01-07-2004

bsc

To

1 The Principal Secretary
Municipal Administration Department,
Government of A.P., Secretariat,
Hyderabad.
2 The Special Officer & Commissioner
Municipal Corporation of Hyderabad,

Tank Bund Road,
Hyderabad.

3 The Estate Officer
Municipal Corporation of Hyderabad, Tank Bund Road,
Hyderabad.
4 2 CCs to Govt. Pleader for Municipal Admn., High Court Buildings,
Hyderabad.
5. 2 CD copies